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OFFICE OF PETITIONS

In re Application of :
Leonard Sadjadi :
Application No. 09/736,354 :
Filed: December 14, 2000 :
Attorney Docket No. LSUI-27,721US :

ON PETITION

This is a decision on the petition filed August 10, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment or, in the alternative, under 37 CFR 1.137(b) to revive the application. This is also a decision on the petition under 37 CFR 1.182 filed August 10, 2005. This is also a corrected decision on the petition under 37 CFR 1.313 filed July 18, 2005.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The petition under 37 CFR 1.182 is **dismissed as moot**.

The petition under 37 CFR 1.313 is **dismissed**.

The only current attorneys/agents of record are Roger Chauza and Mark Handley. All future correspondence will be mailed only to the address of record which is the address listed at the top of this decision.

The application and an executed declaration were filed on December 14, 2000. The declaration included a power of attorney giving authority to prosecute the application to James Bradley, Frank Vaden, Charles Gunter, and Andrew Dillon.

A "Revocation and Appointment of Power of Attorney and Statement Under 37 C.F.R. § 3.73(b)" was filed on October 17, 2003.

The paper was signed by Leonard Sadjadi as Director for an assignee of a 50% interest in the patent. Leonard Sadjadi is also the applicant and sole inventor.

A revocation and power of attorney will only be effective if signed by certain parties. Parties which can properly sign a revocation and power of attorney are:

- (1) A single assignee of the entire interest in the application;
- (2) All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application, who together own the entire right, title and interest in the application; and
- (3) All the inventors.

The October 17, 2003 paper was not signed by a party listed in (1) or (2) above. However, the paper was signed by all the inventors. The application's sole inventor, Leonard Sadjadi, signed the paper.

In certain circumstances, pursuant to 37 CFR 1.371, an assignee or *all* the partial assignees may take steps to exclude the inventor(s) from participating in prosecution. However, such steps were never taken.

For the reasons above, the October 17, 2003 paper was properly signed and properly accepted by the Office.

The October 17, 2003 paper gave powers of attorney to Roger Chauza and Mark Handley. The paper changed the address of record to the address associated with customer number 31782.

Chauza and Handley began prosecuting the application.

A Notice of Allowance and a Notice of Allowability were mailed on February 22, 2005.

The issue fee transmittal form filed on May 9, 2005, failed to list any assignee. Therefore, unless further steps were taken, the name of neither assignee would appear on the face of the patent.

On July 18, 2005, James Bradley filed a petition to withdraw from issue and to expressly abandon the application in favor of a continuation application. James Bradley acted on behalf of the assignee who owned the 50% interest not owned by the assignee who employed Leonard Sadjani.

James Bradley did not have authority to sign the paper and the paper should not have been entered.

The July 18, 2005 decision granting the petition to withdraw from issue is hereby vacated.

The application is not abandoned and the petition to withdraw the holding of abandonment is granted.

Since the petition under 37 CFR 1.181 has been granted, petitioner's request to have the petition considered in the alternative under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of \$750 for the petition under 37 CFR 1.137(b) will be credited back to petitioner's credit card.

The petition under 37 CFR 1.182 seeks for the Office to allow attorneys Roger Chauza and Mark Handley to participate in the prosecution of the application. However, as stated above, the only parties with powers of attorney are Roger Chauza and Mark Handley. Therefore, the petition under 37 CFR 1.182 is unnecessary and is dismissed as moot. The petition fee of \$400 will be credited back to petitioner's credit card.

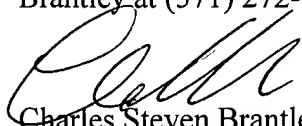
Petitioner may wish to file a petition under 37 CFR 3.81(b)¹ which provides a remedy when the name of an assignee is inadvertently omitted from the issue fee transmittal form.

¹ 37 CFR 3.81(b) currently states:

Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The Office of Patent Publications will be informed of the instant decision so that it may take steps to issue the instant application as a patent.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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Office of Petitions

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